

section, the gross income of any foreign corporation (or other entity) shall be computed in the same manner as if the foreign corporation were a domestic corporation (or a domestic entity).

(c) *Exception.* Paragraph (a) of this section shall not apply to a sale of personal property if the gain (determined under chapter 1 of the Internal Revenue Code and computed on an item by item basis as provided under paragraph (a) of this section) from the sale or exchange of the personal property is subject to an income, war profits, or excess profits tax (including a tax withheld with respect to nonresident aliens or foreign corporations) with respect to a foreign country or a possession of the United States in which the sale or exchange occurs, and the rate of tax imposed by such country or possession applicable to such gain is 10 percent or more. For purposes of this paragraph, the tax must be 10 percent or more of the total amount of gain (whether ordinary or capital) arising from the sale or exchange of the item of personal property.

(d) *Application of source rules.* In determining the foreign country or possession where property is sold or exchanged for purposes of paragraphs (b) and (c) of this section, and the foreign country or possession where gross income is derived for purposes of paragraphs (b)(2), (3) and (e) of this section, the source of any gain or income shall be determined by applying the principles under sections 861, 862, and 863 and the regulations thereunder.

(e) *Gain from liquidation of certain foreign corporations.* Paragraph (a) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies, if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred (or for such part of such period as the corporation has been in existence, but in no event less than a 12-month period). For purposes of paragraph (e) of this section, the gross income of the foreign corporation shall be computed in the

same manner as if the foreign corporation were a domestic corporation.

(f) *Residence defined.* For purposes of paragraph (b)(1) of this section, the country of an individual's residence is to be determined by applying the rules under §§ 301.7701(b)-1 through 301.7701(b)-9 of this chapter.

(g) *Tax rate applicable to gain.* For purposes of paragraph (c) of this section, the tax rate applicable to the gain on the sale or exchange of personal property (as determined under chapter 1 of the Internal Revenue Code 1954) shall be determined by applying the tax laws of the foreign country or possession (and any applicable reduction under a tax treaty) to such gain and by treating the gain from such transaction as if such gain were the only income derived by the taxpayer during the taxable year (and the only deductions allowed are deductions directly attributable to such gain).

(h) *Country in which gross income derived.* Notwithstanding paragraph (d) of this section, for purposes of this section, dividends received by a shareholder who is not a U.S. person from a foreign corporation shall be deemed to be derived from sources within the foreign country under the laws of which the foreign corporation is created or organized.

[T.D. 7914, 48 FR 44524, Sept. 29, 1983, as amended by T.D. 8411, 57 FR 15241, Apr. 27, 1992]

§ 1.904(b)-4 Effective date.

Sections 1.904(b)-(1) and 1.904(b)-2 shall apply to taxable years beginning after December 31, 1975 and § 1.904(b)-3 shall apply to sales and exchanges made after November 12, 1975.

[T.D. 7914, 48 FR 44525, Sept. 29, 1983]

§ 1.904(f)-1 Overall foreign loss and the overall foreign loss account.

(a) *Overview of regulations.* In general, section 904(f) and these regulations apply to any taxpayer that sustains an overall foreign loss (as defined in paragraph (c)(1) of this section) in a taxable year beginning after December 31, 1975. For taxable years ending after December 31, 1984, and beginning before January 1, 1987, there can be five types of overall foreign losses: a loss under each